
By: **Chairman, Judicial Proceedings Committee (Maryland Judicial Conference)**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 6, 2003

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Desertion and Nonsupport of Child - Jurisdiction,**
3 **Enforcement, and Penalties**

4 FOR the purpose of granting a circuit court exclusive original jurisdiction over
5 desertion of a minor child, willful nonsupport of a minor child, and constructive
6 criminal contempt for a violation of a child support provision of a court order;
7 eliminating the right to a jury trial under certain circumstances; altering
8 certain penalties for willful nonsupport of a minor child; requiring certain notice
9 of an intent to prosecute an individual as a subsequent offender; specifying
10 certain penalties for constructive criminal contempt for a violation of a child
11 support provision of a court order; making certain provisions relating to the
12 authority of a court to place an individual on probation under certain
13 circumstances and provisions relating to the collection of support during
14 incarceration applicable to certain constructive criminal contempt cases;
15 providing for the application of this Act; and generally relating to child support
16 and desertion.

17 BY renumbering

18 Article - Family Law

19 Section 10-204, 10-205, 10-206, 10-207, 10-208, and 10-209, respectively

20 to be Section 10-205, 10-206, 10-207, 10-208, 10-209, and 10-210, respectively

21 Annotated Code of Maryland

22 (1999 Replacement Volume and 2002 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Courts and Judicial Proceedings

1 Section 4-302(f)
2 Annotated Code of Maryland
3 (2002 Replacement Volume)

4 BY repealing and reenacting, with amendments,
5 Article - Criminal Procedure
6 Section 6-101
7 Annotated Code of Maryland
8 (2001 Volume and 2002 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Family Law
11 Section 10-203 and 10-215(b)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2002 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Family Law
16 Section 10-205, 10-206, and 10-208
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2002 Supplement)
19 (As enacted by Section 1 of this Act)

20 BY adding to
21 Article - Family Law
22 Section 10-204
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2002 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That Section(s) 10-204, 10-205, 10-206, 10-207, 10-208, and 10-209,
27 respectively, of Article - Family Law of the Annotated Code of Maryland be
28 renumbered to be Section(s) 10-205, 10-206, 10-207, 10-208, 10-209, and 10-210,
29 respectively.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
31 read as follows:

32 **Article - Courts and Judicial Proceedings**

33 4-302.

34 (f) (1) Except as provided in Title 4, Subtitle 5 of the Family Law Article,
35 the District Court does not have jurisdiction of an offense otherwise within the
36 District Court's jurisdiction if a person is charged:

1 (i) With another offense arising out of the same circumstances but
2 not within the District Court's jurisdiction; [or]

3 (ii) In the circuit court with an offense arising out of the same
4 circumstances and within the concurrent jurisdictions of the District Court and the
5 circuit court described under subsection (d) of this section; OR

6 (III) UNDER § 10-203 OR § 10-204 OF THE FAMILY LAW ARTICLE.

7 (2) In the cases described under paragraph (1) of this subsection, the
8 circuit court for the county has exclusive original jurisdiction over all the offenses.

9 **Article - Criminal Procedure**

10 6-101.

11 (A) In a criminal case tried in a court of general jurisdiction, there is [no] A
12 right to a jury trial [unless] ONLY IF:

13 (1) the crime charged is subject to a penalty of imprisonment; or

14 (2) there is a constitutional right to a jury trial for the crime.

15 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THERE IS NO
16 RIGHT TO A JURY TRIAL IF A PERSON IS CHARGED UNDER § 10-203(A) OR § 10-204(A)
17 OF THE FAMILY LAW ARTICLE FOR A FIRST OFFENSE.

18 **Article - Family Law**

19 10-203.

20 (a) (1) A parent may not willfully fail to provide for the support of his or her
21 minor child.

22 (2) A PARENT WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
23 MISDEMEANOR AND ON CONVICTION IS SUBJECT:

24 (I) FOR A FIRST OFFENSE, TO IMPRISONMENT NOT EXCEEDING 60
25 DAYS; AND

26 (II) FOR A SUBSEQUENT OFFENSE, TO A FINE NOT EXCEEDING \$100
27 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

28 (3) UNLESS A PARENT IS BEING TRIED UNDER THIS SUBSECTION AS A
29 SUBSEQUENT OFFENDER, THE PARENT IS NOT ENTITLED TO A JURY TRIAL.

30 (4) A PROSECUTOR WHO INTENDS TO TRY A PARENT UNDER THIS
31 SUBSECTION AS A SUBSEQUENT OFFENDER SHALL GIVE NOTICE OF THAT INTENT IN:

32 (I) THE CHARGING DOCUMENT;

1 (II) AN AMENDMENT TO THE CHARGING DOCUMENT; OR

2 (III) A NOTICE SERVED ON THE PARENT OR THE PARENT'S COUNSEL
3 AT LEAST 15 DAYS BEFORE TRIAL.

4 (b) (1) A parent may not desert his or her minor child.

5 [(c)] (2) [An individual] A PARENT who violates this [section] SUBSECTION
6 is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or
7 imprisonment not exceeding 3 years or both.

8 10-204.

9 (A) AN INDIVIDUAL WHO COMMITS CONSTRUCTIVE CRIMINAL CONTEMPT, AS
10 DESCRIBED IN THE MARYLAND RULES, FOR A VIOLATION OF A CHILD SUPPORT
11 PROVISION OF A COURT ORDER, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
12 IS SUBJECT:

13 (1) FOR A FIRST OFFENSE, TO IMPRISONMENT NOT EXCEEDING 60 DAYS;
14 AND

15 (2) FOR A SUBSEQUENT OFFENSE, TO ANY COMMON LAW PENALTY.

16 (B) UNLESS AN INDIVIDUAL IS BEING TRIED UNDER THIS SECTION AS A
17 SUBSEQUENT OFFENDER, THE INDIVIDUAL IS NOT ENTITLED TO A JURY TRIAL.

18 (C) A COURT OR PROSECUTOR WHO INTENDS TO TRY AN INDIVIDUAL UNDER
19 THIS SECTION AS A SUBSEQUENT OFFENDER SHALL GIVE NOTICE OF THAT INTENT
20 IN:

21 (1) THE CHARGING DOCUMENT;

22 (2) AN AMENDMENT TO THE CHARGING DOCUMENT; OR

23 (3) A NOTICE SERVED ON THE INDIVIDUAL OR DEFENSE COUNSEL AT
24 LEAST 15 DAYS BEFORE TRIAL.

25 10-205.

26 (a) Before trial and with the written consent of the accused individual, or on
27 conviction of the individual under § 10-203 OR § 10-204 of this subtitle, instead of or in
28 addition to imposing a penalty under § 10-203 OR § 10-204 of this subtitle, the court
29 may:

30 (1) order the individual to pay child support periodically in a certain
31 amount for 3 years, or, if there is an agreement with respect to support of the child,
32 order the individual to make payments as provided in the agreement; and

33 (2) place the individual on probation on the individual's entering into a
34 recognizance.

1 (b) In passing the order, the court shall consider the financial circumstances of
2 the accused individual.

3 (c) The accused individual shall make the payments:

4 (1) to the person who has custody of the minor child, through the
5 appropriate support enforcement agency; or

6 (2) if there is an agreement with respect to support of the child, to the
7 recipient designated in the agreement.

8 (d) The court may modify the order as circumstances require.

9 10-206.

10 (a) A recognizance ordered by the court under § 10-202 or [§ 10-204] § 10-205
11 of this subtitle shall be:

12 (1) in an amount that the court directs; and

13 (2) on the conditions that:

14 (i) if the individual is summoned to appear by the court within the
15 3-year probationary period, the individual shall appear; and

16 (ii) the individual shall pay support as ordered by the court.

17 (b) During the 3-year probationary period, if an individual fails to pay support
18 under the court's order, the court may proceed to try or sentence the individual.

19 (c) The court may order that a forfeited recognizance be paid wholly or partly
20 as provided in § 10-202(c) or [§ 10-204(c)] § 10-205(C) of this subtitle, as appropriate.
21 10-208.

22 (a) If the court sentences an individual who is convicted under § 10-201 [or],
23 § 10-203, OR § 10-204 of this subtitle to the jurisdiction of the Division of Correction,
24 the court may order the Commissioner of Correction:

25 (1) to deduct an amount from any earnings of the individual; and

26 (2) to pay that amount at certain intervals:

27 (i) as provided in § 10-202(c) of this subtitle, if the individual is
28 convicted of nonsupport of the individual's spouse under § 10-201 of this subtitle; or

29 (ii) as provided in [§ 10-204(c)] § 10-205(C) of this subtitle, if the
30 individual is convicted [of nonsupport or desertion of the individual's minor child]:

31 1. under § 10-203 of this subtitle, OF NONSUPPORT OR
32 DESERTION OF THE INDIVIDUAL'S MINOR CHILD; OR

